

JUL 16 1975

WILLIAM L. WHITTAKER  
CLERK, U. S. DIST. COURT  
SAN FRANCISCO

FLEHR, HOHBACH, TEST,  
ALBRITTON & HERBERT  
THOMAS O. HERBERT  
BAYLOR G. RIDDELL  
160 Sansome Street - 15th floor  
San Francisco, California  
(415) 781-1989

Attorneys for Atari, Inc.  
and Kee Games, Inc.

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THE MAGNAVOX COMPANY and	)	
SANDERS ASSOCIATES, INC.	)	Civil Action M-75-101-C
	)	
Plaintiffs	)	(C74 C 1030 - Northern District
	)	of Illinois)
v.	)	
	)	
BALLY MANUFACTURING	)	<u>STIPULATED PROTECTIVE ORDER</u>
CORPORATION et al,	)	
	)	
Defendants.	)	

Upon stipulation of the plaintiffs and ATARI, INC.  
and KEE GAMES, INC., it is hereby ORDERED that:

1. Any document or portion thereof, or other form  
of evidence contemplated under Rules 26 through 37 of the  
Federal Rules of Civil Procedure for which a claim of  
confidentiality or trade secrecy is made at the time of  
production on behalf of ATARI, INC. and/or KEE GAMES, INC.,  
pursuant to subpoena duces tecum or otherwise produced, shall  
be designated as CONFIDENTIAL UNDER PROTECTIVE ORDER. At  
the time it is produced for inspection by counsel, it is  
sufficient designation for this purpose that a container  
holding tangible objects, a file or an individual document  
bear a written label marked CONFIDENTIAL UNDER PROTECTIVE  
ORDER or the like and any object, file or document so marked  
shall be handled as hereinafter set forth. Any copies of such

1 documents or other tangible things so designated which are there-  
2 after requested by and supplied to plaintiffs shall be marked  
3 CONFIDENTIAL UNDER PROTECTIVE ORDER and shall be subject to the  
4 following conditions.

5         2. Documents and other tangible things designated  
6 CONFIDENTIAL UNDER PROTECTIVE ORDER, copies thereof, and the  
7 information contained therein, and any analysis or report pertain-  
8 ing thereto, shall be made available to and/or inspected by  
9 attorney employees of the parties to this stipulated order having  
10 a need to know, lawyers and clerical personnel of outside counsel  
11 and independent testing laboratories not associated directly or  
12 indirectly with a party and shall be used only for the purposes  
13 of the aforementioned litigation Civil Action No. 74 C 1030,  
14 United States District Court for the Northern District of  
15 Illinois, Eastern Division and in litigation captioned Atari, Inc.  
16 v. The Maganavox Company et al Civ. Action No. C 75 1442RFP in  
17 the United States District Court for the Northern District of Calif.

18         3. The documents or other tangible things, designated  
19 CONFIDENTIAL UNDER PROTECTIVE ORDER, copies thereof, or the  
20 information contained therein and analyses or reports pertain-  
21 ing thereto, shall not be disclosed to other than those named  
22 in paragraph 2 hereof, until and unless:

23             (A) Counsel for ATARI, INC. and/or KEE GAMES,  
24 INC. waives in writing, the claim of confidentiality  
25 thereof, or

26             (B) Such information is otherwise rightfully  
27 acquired by and on behalf of one of the parties to  
28 this litigation, or

29             (C) Such information becomes public knowledge,  
30 other than by act or omission of one of the parties  
31 to this litigation or their representatives or  
32 employees, or

1 (D) A Court Order releases the confidentiality.

2 4. If any party to this litigation concludes that  
3 for the purpose of this action, they need to disclose any of  
4 said confidential material, or the information contained  
5 therein or derived therefrom, to any person not specified in  
6 paragraph 2 hwerein, or to offer it in evidence in this  
7 action, they may request the producing counsel to grant  
8 permission to do so for specified documents or information.  
9 To be effective, such consent must be granted in writing with  
10 respect to specified documents or information by producing  
11 counsel and the provisions of this Stipulated Protective  
12 Order shall thereby be modified as to such specified documents  
13 or information. If counsel cannot agree as to the disposition  
14 of such a request on fifteen (15) days written notice to  
15 producing counsel, application to the United States District  
16 Court for the Northern District of Illinois for ruling on  
17 such a request may be made and on such application this  
18 Stipulated Protective Order shall be without prejudice to the  
19 rights of any party in any respect; provided, however, that the  
20 party seeking removal of the confidential status of any such  
21 material shall pay to Atari, Inc. travel expenses for two persons  
22 from Los Gatos, California to Chicago, Illinois for attendance  
23 at each hearing in any such application. Furthermore, it is a  
24 specific understanding that if said Court's assistance is  
25 sought in expediting discovery and completion of this litiga-  
26 tion it is agreed:

27 (A) That the mere designation of a document  
28 by counsel or a party as being "confidential"  
29 cannot alter or enhance the nature of that document  
30 or its confidentiality or create any presumption of  
31 confidentiality;  
32

1 (B) In the event that the parties disagree  
2 on the propriety of classifying a document as  
3 confidential, the party seeking classification  
4 other than confidential shall submit a request  
5 in writing to the Court for in-camera considera-  
6 tion of the document and a determination of the  
7 desirability of releasing the document for further  
8 use in this litigation; and

9 (C) The Court shall release the document for  
10 use in this litigation and for disclosure to the  
11 other parties to this litigation if the Court finds  
12 that the document is relevant and material to the  
13 issues subject only to such further or alternate  
14 protective provisions as the Court may deem just in  
15 the circumstances.

16 5. Any other party to this action who wishes access  
17 to the documents on the same basis and with the same restric-  
18 tions as set forth hereinabove with respect to plaintiffs,  
19 may enter into this stipulated order by agreement of counsel  
20 attested to by an appropriate signature of counsel hereto.

21 Theodore W. Anderson  
22 Attorney for Plaintiffs

23  
24 Thomas O. Schmitt  
25 Attorney for Atari, Inc. and  
26 Kee Games, Inc.

27 IT IS SO ORDERED.

28 Date 7/16/75

LLOYD H. BURKE

United States District Judge

29  
30 Donald H. H. H.  
31 Attorney for Bally Manufacturing Corp.  
32 Empire Distributing, Inc.  
Midway Mfg. Co.

I hereby certify that the annexed  
instrument is a true and correct copy  
of the original on file in my office.  
ATTEST:

Clerk, U. S. District Court  
Northern District of California

By [Signature]  
Dated 7-16-75